

SC NAACP v. Alexander,
D.S.C. Case No. 3:21-cv-03302-MGL-TJH-RMG

Exhibit H

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

THE SOUTH CAROLINA
STATE CONFERENCE OF
THE NAACP, et al,

Plaintiffs,

vs.

CASE NO.

3:21-CV-03302-MBS-TJH-RMG

THOMAS C. ALEXANDER,
et al,

Defendants.

VIDEOCONFERENCE

DEPOSITION OF: WILLIAM ROBERTS

DATE: July 7, 2022

TIME: 9:35 a.m.

LOCATION: 1310 Gadsden Street
Mahogany Conference Room
Columbia, SC

TAKEN BY: Counsel for the Plaintiffs

REPORTED BY: ERIC GLAZIER, Court Reporter

1 APPEARANCES OF COUNSEL VIA VIDEOCONFERENCE:

2
3 ATTORNEYS FOR THE PLAINTIFFS:

4 NAACP LEGAL DEFENSE AND EDUCATIONAL
5 FUND

6 BY: JOHN S. CUSICK
7 40 Rector Street
8 5th Floor
9 New York, NY 10006
10 (212) 965-2269
11 Jcusick@naacpldf.org

12 and

13 AMERICAN CIVIL LIBERTIES UNION

14 BY: ADRIEL CEPEDA DERIEUX
15 125 Broad Street
16 18th Floor
17 New York, NY 10004
18 (212) 549-2500
19 Acepedaderieux@aclu.org

20 ATTORNEYS FOR DEFENDANTS

21 THOMAS C. ALEXANDER, in his official
22 capacity as President of the Senate;
23 LUKE A. RANKIN, in his official
24 capacity as Chairman of the Senate
25 Judiciary Committee:

ROBINSON GRAY
BY: ROBERT E. TYSON
1310 Gadsden Street
Columbia, SC 29201
(803) 929-1400
Rtyson@robinsongray.com

and

JONES DAY

BY: JOHN M. GORE
51 Louisiana Avenue NW
Washington, DC 20001
Jmgore@jonesday.com

1 ATTORNEYS FOR DEFENDANTS

2 JAMES H. LUCAS, in his official
3 capacity as Speaker of the House of
4 Representatives; CHRIS MURPHY, in his
5 official capacity as Chairman of the
6 House of Representatives Judiciary
Committee; WALLACE H. JORDAN, in his
official capacity as Chairman of the
House of Representatives Elections Law
Subcommittee:

7 NEXSEN PRUET

8 BY: ANDREW MATHIAS
9 104 South Main Street
Suite 900
Greenville, SC 29601
(864) 282-1195
Amathias@nexsenpruet.com

10 ATTORNEYS FOR DEFENDANTS

11 JOHN WELLS, Chair, JOANNE DAY, CLIFFORD
12 J. EDLER, LINDA McCALL, and SCOTT
MOSELEY, in their official capacities
13 as members of the South Carolina
Election Commission:

14 BURR & FORMAN

15 BY: JANE W. TRINKLEY
MICHAEL R. BURCHSTEAD
16 1221 Main Street
Suite 1800
Columbia, SC 29201
17 (803) 753-3241
Jtrinkley@burr.com
18 Mburchstead@burr.com

19 ALSO PRESENT VIA VIDEOCONFERENCE:

20 MARGARET LEATHERWOOD
21 CYNDI NYGORD

22
23
24 (INDEX AT REAR OF TRANSCRIPT)
25

P R O C E E D I N G S

- - - - -

COURT REPORTER: The attorneys participating in this deposition acknowledge that the reporter is not physically present in the deposition room and that the reporter will be reporting this deposition remotely.

They further acknowledge that in lieu of an oath administered in person, I will administer the oath remotely.

If any party has an objection to this manner of reporting, please state it now.

Hearing none, I will proceed.

WILLIAM ROBERTS,
being first duly sworn, testified as follows:

EXAMINATION

BY MR. CUSICK:

Q. Good morning, Mr. Roberts. My name is John Cusick. I'm one of the attorneys representing the plaintiffs in this lawsuit, The South Carolina State Conference of the NAACP vs. Alexander.

If you don't mind, could you please state your full name for the record, spelling your first and last name?

A. My name is William Francis Roberts, Jr.

1 W-I-L-L-I-A-M is the first name. Last name is
2 Roberts, R-O-B-E-R-T-S.

3 Q. Great. Thank you.

4 MR. CUSICK: And I'll just take a
5 moment now, if everybody in the virtual room, if
6 you will, who is planning to make an appearance,
7 will do so in a moment.

8 And I'll start with any of your counsel
9 in your room, Mr. Roberts.

10 MR. GORE: Good morning. This is John
11 Gore of Jones Day for senate defendants Rankin and
12 Alexander.

13 MR. TYSON: And Rob Tyson. I'm with
14 John and Will.

15 MR. MATHIAS: And this is Andrew
16 Mathias with Nexsen Pruet on behalf of the
17 individual house defendants. With me in the room
18 is Meg Leatherwood, who's a Georgetown law student
19 and summer associate with us at Nexsen Pruet.

20 MS. TRINKLEY: This is Jane Trinkley
21 with Burr & Forman. I represent the election
22 defendants.

23 MR. DERIEUX: Hi. This is Adriel
24 Cepeda of the ACLU, also representing the
25 plaintiffs.

1 A. Okay. Just me and Breeden John.

2 Q. And who did you primarily seek input
3 and instructions from when you were drawing maps?

4 A. That would have been Charlie Terreni
5 and Andy Fiffick.

6 Q. Did Mr. Terreni at all create a binder
7 during the redistricting process with information?

8 A. That I don't know.

9 Q. Do you recall any senators having a
10 binder of information related to redistricting?

11 A. All senate members were given a binder
12 of information on redistricting prior to the -- or
13 at the subcommittee and full committee meetings.

14 Q. And who prepared that binder?

15 A. That would have been judiciary staff.

16 Q. Were there any weekly meetings with the
17 redistricting members, like Mr. Terreni or other
18 staff members, for congressional redistricting?

19 A. We met daily for a long time, working
20 out maps and discussing congressional
21 redistricting.

22 Q. On a weekly basis, biweekly?

23 A. I can't recall.

24 Q. What was involved in those meetings,
25 generally?

1 A. It would have been the judiciary staff
2 and Charlie Terreni.

3 Q. And just so we're on the same page for
4 the staff moving forward, that's Mr. Fiffick, would
5 that include Ms. Faulk?

6 A. She was in and out of these meetings,
7 as well as Maura Baker was in and out sometimes.
8 Really it was Charlie, Andy, Paula, Breeden, and
9 myself.

10 Q. Were any other attorneys outside of
11 Mr. Terreni involved in any of these discussions?

12 A. Mr. Gore, sitting next to me.

13 Q. And when did Mr. Gore's involvement
14 begin for congressional redistricting?

15 A. I don't remember the exact date.

16 Q. Did you have any regular meetings with
17 members of the redistricting subcommittee that
18 weren't -- during their -- that weren't public?

19 A. Can you repeat the question, please?

20 Q. Did you have any meetings with any
21 members of the redistricting subcommittee?

22 A. We did. We had -- we did have meetings
23 with some of the members.

24 Q. I know you recalled you can't remember
25 when the weekly meetings were with the core

1 redistricting team. Are there any documents or
2 documentation of when those meetings occurred?

3 A. I didn't take any notes during the
4 meetings.

5 Q. Do you recall if anyone else took
6 notes?

7 A. I can't recall who did or who didn't.

8 Q. Do you know who would know?

9 A. You'd have to ask each member of the
10 committee if they took notes, or the redistricting
11 committee, the technical committee, I guess you'd
12 call it.

13 Q. So, I guess, to drill down a little bit
14 on the timeline, you were hired for the position
15 with the senate as a cartographer roughly two years
16 ago; is that right?

17 A. That's correct, 2020.

18 Q. And during that first year, 2020 till
19 2021, who were you regularly meeting with?

20 A. Would have been Charlie Terreni and
21 Andy Fiffick.

22 Q. And that's it?

23 A. That's all I can recall.

24 Q. And then you testified that Mr. Gore at
25 some point joined some of those meetings

1 beginning -- do you recall if it was before maps
2 were proposed?

3 A. I can't recall.

4 Q. Do you know who would be able to
5 recall?

6 A. Either Andy Fiffick or Charlie Terreni.

7 Q. And you don't have any general
8 recollection if it was -- if Mr. Gore joined before
9 census data was released?

10 A. I couldn't tell you if it was before or
11 after.

12 Q. What about before any maps were
13 publically shared by the senate?

14 A. I couldn't tell you if it was before or
15 after.

16 Q. Did you have a calendar invite for
17 those meetings?

18 A. I couldn't tell you. I'd have to go
19 back and look at my calendar.

20 Q. Did you turn over the calendar invites
21 for these meetings as part of the request from
22 counsel?

23 A. I'm not sure. They would have been
24 included in the emails, I believe.

25 Q. Who sent out the calendar invites for

1 these meetings?

2 A. If it was a Zoom call, it's typically
3 Breedon John.

4 Q. When was Mr. John first hired?

5 A. I don't recall when he was first hired.

6 Q. Do you recall how many meetings
7 Mr. Gore joined --

8 A. I don't recall.

9 Q. -- regarding congressional
10 redistricting?

11 A. I don't recall.

12 Q. More than three?

13 A. I couldn't say, because he was also
14 involved in the senate redistricting, so I couldn't
15 tell you at all how many he...

16 Q. Did he participate in person?

17 A. No, just via Zoom.

18 Q. When did the process for creating
19 congressional maps begin?

20 A. I can't give you -- can't give you an
21 exact date.

22 Q. What about a month?

23 A. I just -- I can't recall.

24 Q. Do you understand why Mr. Gore was
25 included in these weekly meetings?

1 A. I didn't hire him, so I have no idea.

2 Q. Did you have any understanding of his
3 role in the meetings that you were participating
4 in?

5 A. I believe he was there to give legal
6 advice.

7 Q. Were there any other attorneys outside
8 of Mr. Gore and Mr. Terreni that were considered
9 outside counsel?

10 A. Not that I can recall.

11 Q. I'll now move on to some questions
12 about the senate redistricting criteria and
13 guidelines. This is in -- it's labeled Tab 4 in
14 SharePoint. It'll be labeled Plaintiff's
15 Exhibit 4. It's titled, The 2021 Redistricting
16 Guidelines, dated -- with adopted September 17,
17 2021, with Bates stamp numbering South Carolina
18 Senate ending in 3721.

19 Give me one moment to just put it into
20 Exhibit Share, Exhibit -- and I'll pull that up on
21 the screen.

22 (PLF. EXHIBIT 4, 2021 REDISTRICTING
23 GUIDELINES, was marked for identification.)
24 BY MR. CUSICK:

25 Q. Can you see this document okay,

1 Mr. Roberts? Or if it's easier in front of you...

2 A. We've got it pulled up.

3 Q. What's your understanding of this
4 document?

5 A. Can I review and read this document
6 before I answer?

7 Q. Yeah, sure.

8 A. Okay. Can you repeat the question,
9 please?

10 Q. Sorry, just to take one step back, did
11 you review this document at all in preparation for
12 today's deposition?

13 A. I've seen it before, but have not read
14 it.

15 Q. When you say you have not read it, that
16 includes the entire redistricting process?

17 A. Repeat the question, please.

18 Q. You said that you skimmed it before,
19 but have not read this document?

20 A. That's correct.

21 Q. And so did you at all become aware of
22 this document during the congressional
23 redistricting cycle?

24 A. Yes. This is --

25 Q. Did you rely on --

1 A. I'm sorry. Go ahead.

2 Q. No, no, sorry. Go ahead.

3 A. Yeah, this was -- this document was
4 created prior to the start of the redistricting
5 process.

6 Q. Did it guide your work in drawing maps?

7 A. These were the guidelines that were
8 adopted by the subcommittee, yes.

9 Q. And so did you review it as you were
10 drawing maps?

11 A. Not -- (inaudible)

12 Q. Sorry. I don't know -- it might
13 have -- came in and out for me. I didn't hear what
14 you said.

15 A. Not as we were drawing maps, did we go
16 back to this document to review the document.

17 Q. Did you review it before you drew any
18 congressional maps?

19 A. This was -- (inaudible)

20 (Off-the-record conference to address a
21 technical issue)

22 BY MR. CUSICK:

23 Q. Mr. Roberts, during the break, did you
24 have any conversation with your attorneys about
25 this deposition?

1 A. Not about the deposition, no.

2 Q. I'm going to pull back up the --
3 Plaintiff's Exhibit 4, which is the 2021
4 redistricting guidelines that were adopted by the
5 senate on September 17, 2021. It might make
6 sense -- I'll begin with my first -- the first
7 question again.

8 Did you at all review this document
9 before drawing any maps for congressional districts
10 or congressional maps?

11 A. I did look at this document prior to
12 drawing maps.

13 Q. Sorry, I don't know if that was me.
14 Could you repeat that answer again?

15 A. Said, yes, we did look at this prior to
16 drawing maps, from what I remember.

17 Q. And when you say, we, who are you
18 referring to?

19 A. It would have been Paula Benson, Andy
20 Fiffick, Charlie Terreni, and myself, and Breeden
21 John as well.

22 Q. Did you have any involvement or role in
23 creating these guidelines?

24 A. No. That was primarily Paula Benson's
25 responsibility, from what I can remember, this

1 document.

2 (Off-the-record conference to address a
3 technical issue)

4 BY MR. CUSICK:

5 Q. On the screen, we have Plaintiff's
6 Exhibit 4, which are the 2021 redistricting
7 guidelines.

8 I believe, Mr. Roberts, before we just
9 went off record, you had mentioned that you,
10 Mr. Fiffick, and Mr. Terreni had reviewed these
11 guidelines at some point before drawing any
12 congressional maps or districts?

13 (Off-the-record conference to address a
14 technical issue)

15 A. That's correct.

16 Q. And I believe before, you had mentioned
17 you were not at all involved in the creation of
18 these guidelines?

19 A. No, I was not.

20 Q. How did these guidelines impact the
21 drawing of congressional districts for your work?

22 A. These are the guidelines that we were
23 to use to draw the redistricting plans.

24 Q. After initially reviewing the document,
25 did you look to this document to make assessments

1 of any maps that you drew?

2 A. To figure out if the maps that we were
3 drawing complied with this, that was something the
4 attorneys would have looked at, not myself.

5 Q. Got it.

6 Did you create or rely on any
7 additional documents to supplement this criteria?

8 A. Not that I can recall.

9 Q. Were you given any other documents
10 related to redistricting criteria?

11 A. I believe that there was a letter
12 submitted by Senator Harpootlian at one point.
13 That was probably the only other document that I
14 recall that revolved around the guidelines.

15 Q. Did you receive any other instructions
16 about criteria that you should focus on when
17 drawing maps?

18 A. Yes, for the congressional districts,
19 we did.

20 Q. And what were those instructions?

21 A. The instructions were, don't touch the
22 seventh congressional district, Congressman Clyburn
23 wanted a minimal-change plan, and Congressman Joe
24 Wilson didn't want to go to Beaufort; he wanted to
25 keep Fort Jackson.

1 Q. Who provided the instruction to not
2 touch Congressional District Seven?

3 A. That would come from either Andy
4 Fiffick or Senator Rankin. I don't recall which
5 one.

6 Q. What about the -- I think you mentioned
7 a minimal change by either Representative Clyburn
8 or someone in his office?

9 A. That's correct. That came straight
10 from Dalton Tresvant when we had a meeting with
11 him.

12 Q. Did you remain in contact with him
13 during congressional map drawing?

14 A. I believe the only conversation we had
15 was at that meeting, and that would have been all
16 my contact with him, I believe, that I can recall.

17 Q. And then you said from Representative
18 Wilson, the instruction not to include Beaufort in
19 Congressional District Two?

20 A. That's correct, and keep Fort Jackson.

21 Q. How did you weight these instructions
22 based on the other criteria that had been adopted
23 by the senate and was within the congressional
24 guidelines?

25 A. That wasn't a call for me to make, on

1 the -- on which had priority.

2 Q. Whose call would that have been?

3 A. Either the members or Charlie Terreni
4 or Andy Fiffick.

5 Q. Outside of those three instructions,
6 were there any others given by Mr. Fiffick,
7 Mr. Terreni, or any other outside counsel?

8 A. Not that I recall at this moment.

9 Q. Do you know who would know if there
10 were any additional instructions?

11 A. That would have been either Andy or
12 Charlie.

13 Q. In each map you drew, did you follow
14 each one of these three instructions?

15 A. Not on each map we drew, no.

16 Q. What did you make of the instruction
17 not to touch Congressional District Seven?

18 A. Can you repeat the question?

19 Q. What was your assessment of the
20 instruction not to touch Congressional District
21 Seven?

22 A. Just to balance the population and make
23 no drastic changes to the district.

24 Q. And so under Roman numeral one, the --
25 in the middle of the page here that I have

1 before it was released or not.

2 Q. Do you think it would have been helpful
3 to seek their input before it was released?

4 A. It could have been, but then it
5 wouldn't have been a staff plan. It would have
6 been a senator -- a senate plan.

7 Q. Got it.

8 So the designation that it's a staff
9 subcommittee plan indicates no senators'
10 involvement in it?

11 A. Not with the congressional districts,
12 no.

13 Q. Who had the responsibility for
14 assessing and reviewing this plan before it was
15 publicly posted to see if it complied with
16 redistricting criteria?

17 A. That would have been the attorneys.

18 Q. Including Mr. Gore?

19 A. I don't know exactly -- he was sought
20 for legal advice. I just don't recall -- I wasn't
21 privy to a lot of those conversations, as it dealt
22 with attorney information. So I wasn't involved in
23 a lot of those conversations.

24 Q. Were you at all involved in any
25 conversations about compliance with redistricting

1 criteria that didn't involve legal questions?

2 A. Not that I can recall.

3 Q. Do you know if any assessment of
4 whether this map complied with the Voting Rights
5 Act was conducted?

6 A. I have no idea.

7 Q. Did you take any steps from a technical
8 side to ensure that this map complied with
9 redistricting criteria?

10 A. We ran a continuity check on it to make
11 sure everything was contiguous according to the
12 software algorithm, made sure that everything was
13 also assigned so there was no unassigned population
14 in the map. And that's all I can recall at this
15 moment.

16 Q. Even if you didn't conduct an RPV
17 analysis, do you know if any was contemplated or
18 conducted on this map, or for this map?

19 A. I don't know.

20 Q. Have you heard the term, effectiveness
21 analysis?

22 A. No, I have not.

23 Q. If I explained it as a study of two or
24 more redistricting plans using a set of metrics to
25 assess opportunities for voters, does that at all

1 seem consistent or accurate with anything you've
2 heard about it?

3 A. Can you say that one more time?

4 Q. I guess maybe a simpler way is, were
5 there any assessments conducted that compared two
6 maps for how they might perform for certain voters?

7 A. We did compare -- we did do sheets and
8 reports comparing this map to the benchmark map.

9 Q. On what metrics for the comparison
10 purposes?

11 A. Looked at population, looked at racial
12 make-up of the districts, as well as partisan
13 numbers.

14 Q. And for the partisan numbers, was that
15 based on the 2020 presidential elections?

16 A. Primarily, yes.

17 Q. Any other elections?

18 A. We did have 2016 data, but I don't
19 believe it was used in any kind of analysis.

20 Q. We talked earlier about assessments to
21 see if maps might perform for racial minorities to
22 elect candidates of their choice.

23 Do you recall that discussion?

24 A. Yes.

25 Q. Were any assessments along those lines